

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

535,429
PCT/FR2003/003369



Applicant's or agent's file reference BIF114629/SFE	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/003369	International filing date (day/month/year) 13 novembre 2003 (13.11.2003)	Priority date (day/month/year) 20 novembre 2002 (20.11.2002)
International Patent Classification (IPC) or national classification and IPC B65D 5/50, 85/38		
Applicant ESSILOR INTERNATIONAL (COMPAGNIE GENERALE D'OPTIQUE)		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet. <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of _____ sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 24 mai 2004 (24.05.2004)	Date of completion of this report 25 February 2005 (25.02.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.

PCT/FR2003/003369

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
pages _____ 1-15 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____ 1-22 _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the drawings:
pages _____ 1/4-4/4 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.
PCT/FR 03/03369

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	3, 4, 8, 10, 11, 14-16, 18, 20-22	YES
	Claims	1, 2, 5-7, 9, 12, 13, 17, 19	NO
Inventive step (IS)	Claims	4, 8, 10	YES
	Claims	1-3, 5-7, 9, 11-22	NO
Industrial applicability (IA)	Claims	1-22	YES
	Claims		NO

2. Citations and explanations

1.0 Reference is made to the following documents:

- D1: DE 26 36 454 A (SCHROEDER & WAGNER) 16
February 1978 (1978-02-16)
- D2: WO 94/24004 A (ESSILOR INT (FR)) 27 October
1994 (1994-10-27)
- D3: FR-A-2 610 601 A (CLERGEAU PAPETERIES LEON)
12 August 1988 (1988-08-12)

2.0 The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claim 1 does not comply with the criterion of novelty as defined by PCT Article 33(2).

2.1 D1 describes (the references between parentheses apply to said document):

Packaging for protecting and securing an object with a circular outline, said packaging comprising:

- a base panel (1);
- two box-sections (19 to 22), each of which: comprises an outer side panel (21) and an inner side panel (20) that includes an opening wherein the object can be at least partially inserted; is attached by a hinge (5, 6) to the base panel (1) along one of two

opposite edges (5,6), respectively; is capable of adopting a flattened position, in which the outer side panel is aligned with the base panel (1), and a raised position, in which the outer side panel is upright relative to the base panel;

- two flaps (8, 13), each of which: is attached by a hinge (7, 14) to the base panel (1) along one of two opposite edges (7, 14), respectively, adjacent to the box-sections (19 to 22); each flap (8, 13) is capable of adopting a flattened position, in which each is aligned with the base panel (1), and a raised position in which, relative to the base panel, each is upright against the longitudinal ends of the box-sections (19 to 22);
- means (2, 11, 12) for retaining the box-sections and the flaps in the raised position;

said packaging being such that, for each box-section (19 to 22): said outer side panel (21) comprises a first end linked by a hinge (5) to the base panel (1) and a second end linked by a hinge (26) to a first end of an intermediate panel (22); said intermediate panel also has a second end linked by a hinge (17) to a first end of said inner side panel (20); said inner side panel also comprises a second end linked by a hinge (16) to the base panel (1) along the hinge (5, 6) between the first end of the outer side panel and the base panel; and such that at least one securing tongue (27, 29) is placed in the opening while being attached to the inner side panel exclusively by an end opposite the base panel.

- 3.0 The same argument applies, *mutatis mutandis*, to the subject matter of the corresponding independent claim 16, which is therefore not novel. The packaging blank defined in claim 16 has the same technical features as the packaging of claim 1, to which a closure panel has been added. The closure panel is also present in D1 (see ref. no. 2 in figure 1 of D1).
- 4.0 The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claim 22 does not involve an inventive step as defined by PCT Article 33(3).
- 4.1 D1, which is considered to be the prior art closest to the subject matter of claim 22, also describes a packaging and securing method as described in claim 1.
- 4.2 Consequently, the subject matter of claim 22 differs from this known method in that the packaging used has a square shape and the object to be packaged has a circular outline, such as a spectacle lens, and has a diameter substantially equal to one side of the square-shaped packaging.
- 4.3 The problem that the present invention is intended to solve can therefore be considered to be that of providing protective and securing packaging having a size and shape comparable to those of a spectacle lens.
- 4.4 The solution proposed in claim 22 of the present application is not considered inventive (PCT Article 33(3)) for the following reasons. D2 describes (the references between parentheses apply to said document) packaging (14) for a spectacle lens (11),

which is square and the side of which is substantially equal to the diameter of the lens (see figures 7A and 7B). Consequently, for a person skilled in the art, including such packaging in the method described in D1 is a routine measure to solve the stated problem.

5.0 In the light of D1 and the corresponding passages cited in the international search report, dependent claims 2, 5 to 7, 9, 12, 13, 17 and 19 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of novelty.

6.0 In the light of D2 and the corresponding passages cited in the international search report, dependent claims 3, 11, 15 and 20 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of inventive step.

7.0 In the light of D3 and the corresponding passages cited in the international search report, dependent claims 14 and 18 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of inventive step

8.0 The combination of features of claims 4, 8 and 10 is not found in the prior art and cannot be derived in an obvious manner therefrom. No available prior art document prompts a person skilled in the art to use four mutually separate securing tongues or an intermediate panel comprising a longitudinal pre-fold.